assisted in the commission of the robbery. One of them, Chan Fook Wah, said he had been recruited to take part in the robbery by one Ah Wai and he then proceeded to give an account of the actual robbery which corresponded very closely to the account given by the driver and his mate. About mid-day on the same day, that is to say half an hour after the latest time at which the cheques could have been cashed on a Saturday, Ah Wai came to his house in an inner suburb of Ipoh with the second appellant who had a bundle under his arm. The second appellant put down the bundle and went away.

This man's brother, Chan Tong Wah, also said he was engaged by Ah Wai to take part in the robbery and did so by patrolling the road on a motor-cycle keeping a lookout for Police cars. He said that on the Saturday morning some time after 11 a.m. he was in his brother's house with his brother when Ah Wai and the second appellant came in. The second appellant was carrying a parcel which he left on a table. Both these people left and later Ah Wai came back alone and opened the parcel which the second appellant had left which contained a sum of money in $10 notes. From this Ah Wai gave him $500 for himself for his trouble and a further $1,000 for safe keeping. Four days later the Police searched this witness's house and found the sum of $1,520 of which the witness said $20 was his own.

Clearly, if it was believed, this evidence made out that the second appellant was connected with the robbery. To what extent that connection can be taken may be a matter for argument but it certainly amounted at the very lowest to abetment of the receiving of the stolen property by the first appellant. The only ground on which this conclusion was attacked before us was that the two robbers who gave evidence were accomplices and their evidence should not have been accepted without the trial Judge administering to himself a caution as to the necessity for corroboration of their evidence in a material particular implicating the appellant. One answer to this is that the trial Judge did warn himself that they were accomplices and did warn himself that their evidence must be treated with great caution. The second answer is that there was corroboration implicating the appellant and that corroboration was to be found in the fact that a few hours after the commission of the robbery and an hour or so prior to the alleged visit with Ah Wai to the house of Chan Fook Wah the second appellant had come into possession of a large quantity of money which was the proceeds of the stolen property.

For the foregoing reasons we were compelled to the view that there were no grounds on which this Court could interfere with the conclusions of the trial Judge that the first appellant had received the property which was stolen in the course of the robbery of the tin while knowing the tin to have been stolen or having reason to believe that the tin was stolen and that the second appellant abetted him in the commission of that offence.

As, however, we were of the opinion that there was no evidence to support the inference that the first appellant knew that the theft of the tin took place in the course of a robbery which amounted to gang-robbery we were compelled to alter his conviction to one under section 411 and as the second appellant was charged not as a principal and not with conspiracy or anything of the sort but with abetment it followed that his conviction must be varied accordingly.

Appeal dismissed — Convictions altered.

Solicitors: *S. M. Yong & Co.; S. Seenivasagam & Sons.*

PUBLIC PROSECUTOR v. MOHD. ISA

[A. Cr. J. (Thomson C.J.) November 2, 1962]

[K.L. — Selangor Criminal Appeal No. 55 of 1962]

Road traffic — Permitting unlicensed person to drive motor-cycle while insurance policy not in force — Magistrate imposing fines — No disqualification of driving licence — Whether "special reasons" exist — Road Traffic Ordinance, 1958, ss.25, 74.

The respondent was convicted on his plea of guilty on a charge of permitting an unlicensed person to drive his motor-cycle and of allowing his motor-cycle to be used while an insurance policy was not in force in contravention of sections 25(2) and 74 of the Road Traffic Ordinance. He was fined $10 on the first charge and $20 on the second charge. The Magistrate refrained from making an order relating to his driving licence on the grounds that the respondent required the use of his motor-cycle to get to his place of work; that he had many dependants to support and that he was a sick man. The Public Prosecutor appealed against the sentences on the ground that they were inadequate.

Held: (1) the fines were inadequate;

(2) the special reasons mentioned in section 74 of the Ordinance are not special reasons connected with the offender but special reasons connected with the commission of the offence. In this case as the special reasons mentioned by the learned Magistrate were special reasons connected with the offender the disqualification mentioned in the section must be imposed.

Where an order for disqualification is made, except in serious cases of being drunk in charge or dangerous driving, the quantum of the monetary penalty is of minor importance.

"Reasons special to the offender" and "reasons special to the offence" explained.

Cases referred to:—

(1) *Public Prosecutor* v. *Yap Hon Min* Selangor Criminal Appeal No. 4 of 1960 (to be reported in 3 M.C.).

(2) *Whittall* v. *Kirby* [1947] K.B. 194.

MAGISTRATE'S CRIMINAL APPEAL.

H. R. Sankey (Deputy Public Prosecutor) for the appellant.

Respondent in person.

Thomson C.J. (delivering oral judgment): This is an appeal by the Public Prosecutor against a decision of the Magistrate at Kuala Lumpur.

The respondent was convicted on his own plea of guilty on a charge of permitting an un-

licensed person to drive his motor-cycle in contravention of section 25(2) of the Road Traffic Ordinance and of allowing his motor-cycle to be used while an insurance policy was not in force in contravention of section 74 of the Road Traffic Ordinance. On the first charge he was fined $10 and on the second charge he was fined $20 but the Magistrate refrained from making an order relating to his driving licence on the grounds that he required the use of his motor-cycle to get to his place of work; that he had many dependants to support and that he was a sick man.

Against these sentences the Public Prosecutor has now appealed on the ground that they are inadequate.

For myself, and I say this for the instruction of Magistrates in general, I do not consider a fine of $10 adequate for the offence of driving without a licence nor do I consider a fine of $20 adequate for the offence of allowing an uninsured motor vehicle to be used on the road.

In that connection I must ask Magistrates to read again what I said on the subject of penalties for statutory offences in the case of *Public Prosecutor* v. *Yap Hon Min.* [1]

In the present case I do not propose to increase these fines for a reason which I shall state presently.

With regard to the question of suspension of driving licences, Magistrates have been reminded again and again of the relevant provisions of section 74 of the Road Traffic Ordinance. If a person allows a motor vehicle to be used on the road without there being in force a policy of insurance in relation to its user then an offence is committed and the offender is liable to be imprisoned for three months or to be fined an amount not exceeding $1,000 or to both such imprisonment and fine and he must also have his driving licence suspended for a period of not less than twelve months unless the Court for special reasons to be specified in it thinks fit to order otherwise. Again, it has been said repeatedly that the special reasons mentioned in that section are not special reasons connected with the offender but special reasons connected with the commission of the offence. The authority for that proposition is to be found in the judgment of Lord Goddard C.J. in *Whittall* v. *Kirby* [2] which I do not propose to quote at length.

In fairness to Magistrates who, in my experience, are always most anxious to do their best, I do not think there is any disposition to disregard the law or what has been said about it, but I do think there is a certain amount of misunderstanding because some statements of the law have been over academic and metaphysical.

I do not propose to attempt to give a large number of illustrations because if I did so I would in effect be making the law myself which is none of my business.

But when I speak of reasons special to the offender I mean just the sort of reasons that the Magistrate acted on in this case, that is that it will be difficult for him to get to his work, that he is a poor man and so forth. These are reasons special to the offender and they are not reasons on which a Magistrate is entitled to act.

The reasons on which he is entitled to act are reasons special to the offence and it will perhaps be sufficient to give one example. That is the case where it is urgently necessary to take a sick person to hospital and the only conveyance available is a motor vehicle whose insurance has happened to run out. If that happened it would be a reason special to the offence and could be a reason for the Magistrate, if he saw fit, to exercise his discretion under the section to refrain from making an order for disqualification.

In the present case there were no such reasons. No such reasons were stated before the Magistrate and I have been at some pains to ascertain from the respondent that there were in fact no special reasons.

In the circumstances the law demanded that he should be disqualified for a period of at least one year and the Magistrate not having made that order and the case now being before me it is now my duty to make it.

I said a few minutes ago I will give my reason for not touching the monetary penalties in this case. The reason is that in my experience the most satisfactory penalty for most motoring offences is disqualification. A fine is paid once and then forgotten. A disqualification means that for 365 days the accused person is reminded every morning that it is a bad thing to break the law and so where an order for disqualification is made, except of course in serious cases of being drunk in charge or dangerous driving, the quantum of the monetary penalty imposed is of minor importance.

In the present case the order for disqualification will run from the date of conviction.

Order accordingly.

PUBLIC PROSECUTOR v. YAP CHONG FATT

[A. Cr. J. (Thomson C.J.) December 21, 1962]

[K.L. — Selangor Criminal Appeal No. 65 of 1962]

Criminal Procedure — First offender — Sentence — When probation instead of imprisonment — Period of imprisonment for first offenders.

The respondent aged 24, and a first offender, was convicted for housebreaking and sentenced to two weeks' imprisonment which he duly served. The amount of property involved was about $50. The Public Prosecutor appealed.

Held: in the case of a young adult hitherto of good character where his first offence is not of great intrinsic gravity the proper course is to put him on probation. If the offence is too serious for that and merits imprisonment, then a sentence of imprisonment should be imposed which will have some effect not only on the